

APPEAL NO. 031382
FILED JULY 17, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on April 21, 2003. The hearing officer determined that the claimant's compensable (right hand and back) injury does not extend to and include chronic pain syndrome, degenerative disc disease at C5-6, a small central disc herniation at C4-5, degenerative disc disease at L5-S1, a small central disc herniation at L5-S1, and a triangular fibrocartilage tear (TFCC) of the right wrist.

The claimant appeals, contending, among other points, that a designated doctor had rated ("awarded . . . Impairment Rating points") the disputed conditions and another doctor testified that an aggravation of a degenerative condition can be caused by trauma. The claimant generally contends that the hearing officer's decision is not supported by sufficient evidence and that there was no evidence to controvert that the claimant fell during therapy. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

It is undisputed that the claimant, an "assembler," sustained a compensable injury attempting to stop material from a pallet from falling on _____. The claimant was diagnosed with a cervical thoracic spine strain/sprain and a contusion to the right hand. The claimant had an MRI of the cervical and lumbar spine on April 13, 2000. The MRI showed degenerative disc disease at "C5/6 and C6/7" and "a small central disc herniation (protrusion)" at C4/5. The claimant testified that on January 25, 2001, she fell while performing therapy for the compensable injury. The mechanics of that fall are disputed and unclear from the medical records (the claimant alleges this is when the TFCC tear occurred). Another lumbar MRI was performed and showed that the "[d]egenerative disc disease, L5-S1, with small central disc protrusion, not significantly changed" from the April 13, 2000, study. A carrier peer review doctor testified at the CCH and was generally of the opinion that there had been no aggravation of the degenerative disc disease, that the claimant's compensable accident did not cause the disc herniations (or protrusions), that there was not enough evidence to establish that the claimant had chronic pain syndrome, and that he did not believe the January 25, 2001, fall caused the TFCC. The hearing officer made findings that the medical evidence was insufficient to causally relate the claimed conditions to the compensable injury (or the right wrist TFCC to the fall during therapy).

The medical evidence was conflicting, and while the claimant argues that a designated doctor rated the claimed injuries, we would note that the Texas Workers' Compensation Commission determines the extent of injury and the presumptive weight of the designated doctor's opinion does not apply to the causation or the extent of the

injury. Texas Workers' Compensation Commission Appeal No. 950789, decided June 30, 1995.

With the medical evidence in conflict, the 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. This is equally true of medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **TRANSPORTATION INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Margaret L. Turner
Appeals Judge